

September 15, 1997
L-97-34

TO : B.V. Ferguson
Director of Programs

FROM : Steven A. Bartholow
Deputy General Counsel
Through: Catherine C. Cook
General Counsel

SUBJECT : Internal Revenue Service - Levies

Attached are two Internal Revenue Service levies against the annuities of the above named individuals. Prior to August 6, 1997, IRS levies were not honored by the Railroad Retirement Board because annuity or pension payments under the Railroad Retirement Act and benefits under the Railroad Unemployment Insurance Act were specifically exempt from levy pursuant to section 6334(a)(6) of the Internal Revenue Code (26 U.S.C. § 6334(a)(6)).

The Taxpayer Relief Act of 1997 (Public Law 105-34, sec. 1024 (111 Stat. 788)), enacted on August 5, 1997, amended the Internal Revenue Code to provide that annuity or pension payments under the Railroad Retirement Act and benefits under the Railroad Unemployment Insurance Act are subject to levy by the Internal Revenue Service to collect unpaid taxes. The amendment applies to any levy issued on or after August 6, 1997. Any such levy is a continuous levy, until released, and may attach to up to 15 percent of each annuity, pension, unemployment, or sickness payment due to the taxpayer.

As amended by the Taxpayer Relief Act of 1997, section 6331(h) of the Internal Revenue Code provides, in pertinent part, as follows:

(h) CONTINUING LEVY ON CERTAIN PAYMENTS.--

(1) IN GENERAL. -The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

(2) SPECIFIED PAYMENT. -For the purposes of paragraph (1), the term "specified payment" means-

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(C) any annuity or pension payment under the Railroad Retirement Act or benefit under the Railroad Unemployment Insurance Act.

Section 1024(b) of the Taxpayer Relief Act of 1997 provides that “[t]he amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act. ”

The attached IRS levies were issued after the Taxpayer Relief Act of 1997 took effect. Therefore, the Board is required by law to honor them. Please take appropriate action to give effect to the levies in accordance with the instructions contained therein.

If you or your staff have any questions concerning implementation of the amendment to section 6331, you may contact T. W. S. or S. J. S.

Attachments